

DEVELOPMENT EXACTIONS

2009 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies provisions relating to development exactions of counties and municipalities.

Highlighted Provisions:

This bill:

- ▶ enacts a definition of "water right";
- ▶ places limitations and restrictions on a county or municipality's imposition of an exaction for a water right; and
- ▶ requires culinary water authorities to provide the basis for its calculations of projected water right requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

10-9a-103, as last amended by Laws of Utah 2008, Chapters 19, 112, 326, and 360

10-9a-508, as last amended by Laws of Utah 2008, Chapter 35

17-27a-103, as last amended by Laws of Utah 2008, Chapters 112, 250, 326, and 360

17-27a-507, as last amended by Laws of Utah 2008, Chapter 35

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-9a-103** is amended to read:

10-9a-103. Definitions.

As used in this chapter:

(1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal

cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, a property owner, a property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(4) "Charter school" includes:

(a) an operating charter school;

(b) a charter school applicant that has its application approved by a chartering entity in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

(c) an entity who is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(5) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(6) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(7) "Culinary water authority" means the department, agency, or public entity with

responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(8) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(9) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(10) "Elderly person" means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

(11) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(12) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(13) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(14) "Geologic hazard" means:

- 95 (a) a surface fault rupture;
96 (b) shallow groundwater;
97 (c) liquefaction;
98 (d) a landslide;
99 (e) a debris flow;
100 (f) unstable soil;
101 (g) a rock fall; or
102 (h) any other geologic condition that presents a risk:
103 (i) to life;
104 (ii) of substantial loss of real property; or
105 (iii) of substantial damage to real property.
- 106 (15) "Identical plans" means building plans submitted to a municipality that are
107 substantially identical to building plans that were previously submitted to and reviewed and
108 approved by the municipality and describe a building that is:
109 (a) located on land zoned the same as the land on which the building described in the
110 previously approved plans is located; and
111 (b) subject to the same geological and meteorological conditions and the same law as
112 the building described in the previously approved plans.
- 113 (16) "Improvement assurance" means a surety bond, letter of credit, cash, or other
114 security:
115 (a) to guaranty the proper completion of an improvement;
116 (b) that is required as a condition precedent to:
117 (i) recording a subdivision plat; or
118 (ii) beginning development activity; and
119 (c) that is offered to a land use authority to induce the land use authority, before actual
120 construction of required improvements, to:
121 (i) consent to the recording of a subdivision plat; or
122 (ii) issue a permit for development activity.
- 123 (17) "Improvement assurance warranty" means a promise that the materials and
124 workmanship of improvements:
125 (a) comport with standards that the municipality has officially adopted; and

- 126 (b) will not fail in any material respect within a warranty period.
- 127 (18) "Land use application" means an application required by a municipality's land use
128 ordinance.
- 129 (19) "Land use authority" means a person, board, commission, agency, or other body
130 designated by the local legislative body to act upon a land use application.
- 131 (20) "Land use ordinance" means a planning, zoning, development, or subdivision
132 ordinance of the municipality, but does not include the general plan.
- 133 (21) "Land use permit" means a permit issued by a land use authority.
- 134 (22) "Legislative body" means the municipal council.
- 135 (23) "Local district" means an entity under Title 17B, Limited Purpose Local
136 Government Entities - Local Districts, and any other governmental or quasi-governmental
137 entity that is not a county, municipality, school district, or unit of the state.
- 138 (24) "Lot line adjustment" means the relocation of the property boundary line in a
139 subdivision between two adjoining lots with the consent of the owners of record.
- 140 (25) "Moderate income housing" means housing occupied or reserved for occupancy
141 by households with a gross household income equal to or less than 80% of the median gross
142 income for households of the same size in the county in which the city is located.
- 143 (26) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
144 spent and expenses incurred in:
- 145 (a) verifying that building plans are identical plans; and
- 146 (b) reviewing and approving those minor aspects of identical plans that differ from the
147 previously reviewed and approved building plans.
- 148 (27) "Noncomplying structure" means a structure that:
- 149 (a) legally existed before its current land use designation; and
- 150 (b) because of one or more subsequent land use ordinance changes, does not conform
151 to the setback, height restrictions, or other regulations, excluding those regulations, which
152 govern the use of land.
- 153 (28) "Nonconforming use" means a use of land that:
- 154 (a) legally existed before its current land use designation;
- 155 (b) has been maintained continuously since the time the land use ordinance governing
156 the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(29) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

(30) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(31) "Plan for moderate income housing" means a written document adopted by a city legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the city;

(b) an estimate of the need for moderate income housing in the city for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the city's program to encourage an adequate supply of moderate income housing.

(32) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

(33) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of

188 a designated geologic hazard area.

189 (34) "Public hearing" means a hearing at which members of the public are provided a
190 reasonable opportunity to comment on the subject of the hearing.

191 (35) "Public meeting" means a meeting that is required to be open to the public under
192 Title 52, Chapter 4, Open and Public Meetings Act.

193 (36) "Record of survey map" means a map of a survey of land prepared in accordance
194 with Section 17-23-17.

195 (37) "Receiving zone" means an area of a municipality that the municipality's land use
196 authority designates as an area in which an owner of land may receive transferrable
197 development rights.

198 (38) "Residential facility for elderly persons" means a single-family or multiple-family
199 dwelling unit that meets the requirements of Section 10-9a-516, but does not include a health
200 care facility as defined by Section 26-21-2.

201 (39) "Residential facility for persons with a disability" means a residence:

202 (a) in which more than one person with a disability resides; and

203 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
204 Chapter 2, Licensure of Programs and Facilities; or

205 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
206 Health Care Facility Licensing and Inspection Act.

207 (40) "Sanitary sewer authority" means the department, agency, or public entity with
208 responsibility to review and approve the feasibility of sanitary sewer services or onsite
209 wastewater systems.

210 (41) "Sending zone" means an area of a municipality that the municipality's land use
211 authority designates as an area from which an owner of land may transfer transferrable
212 development rights to an owner of land in a receiving zone.

213 (42) "Specified public utility" means an electrical corporation, gas corporation, or
214 telephone corporation, as those terms are defined in Section 54-2-1.

215 (43) "Street" means a public right-of-way, including a highway, avenue, boulevard,
216 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
217 way.

218 (44) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be

divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection (44)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances; or

(iv) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (44) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

(45) "Transferrable development right" means the entitlement to develop land within a sending zone that would vest according to the municipality's existing land use ordinances on the date that a completed land use application is filed seeking the approval of development activity on the land.

(46) "Unincorporated" means the area outside of the incorporated area of a city or town.

(47) "Water right" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

~~[(47)]~~ (48) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 2. Section **10-9a-508** is amended to read:

10-9a-508. Exactions -- Requirement to offer to original owner property acquired by exaction.

(1) A municipality may impose an exaction or exactions on development proposed in a land use application, including, subject to Subsection (2), an exaction for a water right, if:

(a) an essential link exists between a legitimate governmental interest and each exaction; and

(b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

(2) (a) A municipality:

(i) shall base any exaction for a water right on the culinary water authority's established calculations of projected water right requirements; and

(ii) may not impose an exaction for a water right if the culinary water authority's existing water rights exceed the water rights needed to meet the reasonable future water requirement of the public, as determined under Subsection 73-1-4(2)(f).

(b) Upon an applicant's request, the culinary water authority shall provide the applicant with the basis for the culinary water authority's calculations under Subsection (2)(a)(i) on which an exaction for a water right is based.

281 ~~[(2)]~~ (3) (a) If a municipality plans to dispose of surplus real property that was acquired
282 under this section and has been owned by the municipality for less than 15 years, the
283 municipality shall first offer to reconvey the property, without receiving additional
284 consideration, to the person who granted the property to the municipality.

285 (b) A person to whom a municipality offers to reconvey property under Subsection
286 ~~[(2)]~~ (3)(a) has 90 days to accept or reject the municipality's offer.

287 (c) If a person to whom a municipality offers to reconvey property declines the offer,
288 the municipality may offer the property for sale.

289 (d) Subsection ~~[(2)]~~ (3)(a) does not apply to the disposal of property acquired by
290 exaction by a community development ~~[or urban]~~ and renewal agency.

291 Section 3. Section **17-27a-103** is amended to read:

292 **17-27a-103. Definitions.**

293 As used in this chapter:

294 (1) "Affected entity" means a county, municipality, local district, special service
295 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
296 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
297 property owner, property owners association, public utility, or the Utah Department of
298 Transportation, if:

299 (a) the entity's services or facilities are likely to require expansion or significant
300 modification because of an intended use of land;

301 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
302 or

303 (c) the entity has filed with the county a request for notice during the same calendar
304 year and before the county provides notice to an affected entity in compliance with a
305 requirement imposed under this chapter.

306 (2) "Appeal authority" means the person, board, commission, agency, or other body
307 designated by ordinance to decide an appeal of a decision of a land use application or a
308 variance.

309 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
310 residential property if the sign is designed or intended to direct attention to a business, product,
311 or service that is not sold, offered, or existing on the property where the sign is located.

- 312 (4) "Charter school" includes:
- 313 (a) an operating charter school;
- 314 (b) a charter school applicant that has its application approved by a chartering entity in
- 315 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and
- 316 (c) an entity who is working on behalf of a charter school or approved charter applicant
- 317 to develop or construct a charter school building.
- 318 (5) "Chief executive officer" means the person or body that exercises the executive
- 319 powers of the county.
- 320 (6) "Conditional use" means a land use that, because of its unique characteristics or
- 321 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be
- 322 compatible in some areas or may be compatible only if certain conditions are required that
- 323 mitigate or eliminate the detrimental impacts.
- 324 (7) "Constitutional taking" means a governmental action that results in a taking of
- 325 private property so that compensation to the owner of the property is required by the:
- 326 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
- 327 (b) Utah Constitution Article I, Section 22.
- 328 (8) "Culinary water authority" means the department, agency, or public entity with
- 329 responsibility to review and approve the feasibility of the culinary water system and sources for
- 330 the subject property.
- 331 (9) "Development activity" means:
- 332 (a) any construction or expansion of a building, structure, or use that creates additional
- 333 demand and need for public facilities;
- 334 (b) any change in use of a building or structure that creates additional demand and need
- 335 for public facilities; or
- 336 (c) any change in the use of land that creates additional demand and need for public
- 337 facilities.
- 338 (10) (a) "Disability" means a physical or mental impairment that substantially limits
- 339 one or more of a person's major life activities, including a person having a record of such an
- 340 impairment or being regarded as having such an impairment.
- 341 (b) "Disability" does not include current illegal use of, or addiction to, any federally
- 342 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.

343 802.

344 (11) "Elderly person" means a person who is 60 years old or older, who desires or
345 needs to live with other elderly persons in a group setting, but who is capable of living
346 independently.

347 (12) "Fire authority" means the department, agency, or public entity with responsibility
348 to review and approve the feasibility of fire protection and suppression services for the subject
349 property.

350 (13) "Flood plain" means land that:

351 (a) is within the 100-year flood plain designated by the Federal Emergency
352 Management Agency; or

353 (b) has not been studied or designated by the Federal Emergency Management Agency
354 but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because
355 the land has characteristics that are similar to those of a 100-year flood plain designated by the
356 Federal Emergency Management Agency.

357 (14) "Gas corporation" has the same meaning as defined in Section 54-2-1.

358 (15) "General plan" means a document that a county adopts that sets forth general
359 guidelines for proposed future development of the unincorporated land within the county.

360 (16) "Geologic hazard" means:

361 (a) a surface fault rupture;

362 (b) shallow groundwater;

363 (c) liquefaction;

364 (d) a landslide;

365 (e) a debris flow;

366 (f) unstable soil;

367 (g) a rock fall; or

368 (h) any other geologic condition that presents a risk:

369 (i) to life;

370 (ii) of substantial loss of real property; or

371 (iii) of substantial damage to real property.

372 (17) "Identical plans" means building plans submitted to a county that are substantially
373 identical building plans that were previously submitted to and reviewed and approved by the

374 county and describe a building that is:

375 (a) located on land zoned the same as the land on which the building described in the
376 previously approved plans is located; and

377 (b) subject to the same geological and meteorological conditions and the same law as
378 the building described in the previously approved plans.

379 (18) "Improvement assurance" means a surety bond, letter of credit, cash, or other
380 security:

381 (a) to guaranty the proper completion of an improvement;

382 (b) that is required as a condition precedent to:

383 (i) recording a subdivision plat; or

384 (ii) beginning development activity; and

385 (c) that is offered to a land use authority to induce the land use authority, before actual
386 construction of required improvements, to:

387 (i) consent to the recording of a subdivision plat; or

388 (ii) issue a permit for development activity.

389 (19) "Improvement assurance warranty" means a promise that the materials and
390 workmanship of improvements:

391 (a) comport with standards that the county has officially adopted; and

392 (b) will not fail in any material respect within a warranty period.

393 (20) "Interstate pipeline company" means a person or entity engaged in natural gas
394 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under
395 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

396 (21) "Intrastate pipeline company" means a person or entity engaged in natural gas
397 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
398 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

399 (22) "Land use application" means an application required by a county's land use
400 ordinance.

401 (23) "Land use authority" means a person, board, commission, agency, or other body
402 designated by the local legislative body to act upon a land use application.

403 (24) "Land use ordinance" means a planning, zoning, development, or subdivision
404 ordinance of the county, but does not include the general plan.

(25) "Land use permit" means a permit issued by a land use authority.

(26) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

(27) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or unit of the state.

(28) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

(29) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(30) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(31) "Noncomplying structure" means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

(32) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(33) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

(34) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(35) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years as revised biennially;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

(36) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

(37) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(38) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(39) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(40) "Receiving zone" means an unincorporated area of a county that the county's land

use authority designates as an area in which an owner of land may receive transferrable development rights.

(41) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.

(42) "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Section 17-27a-515, but does not include a health care facility as defined by Section 26-21-2.

(43) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(44) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(45) "Sending zone" means an unincorporated area of a county that the county's land use authority designates as an area from which an owner of land may transfer transferrable development rights to an owner of land in a receiving zone.

(46) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(47) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

(48) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and

(ii) except as provided in Subsection (48)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an unmanned facility appurtenant to a pipeline owned or operated by a gas corporation, interstate pipeline company, or intrastate pipeline company; or

(B) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility; or

(v) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (48) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

(49) "Township" means a contiguous, geographically defined portion of the unincorporated area of a county, established under this part or reconstituted or reinstated under Section 17-27a-306, with planning and zoning functions as exercised through the township

planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority, except that "township" means a former township under Laws of Utah 1996, Chapter 308, where the context so indicates.

(50) "Transferrable development right" means the entitlement to develop land within a sending zone that would vest according to the county's existing land use ordinances on the date that a completed land use application is filed seeking the approval of development activity on the land.

(51) "Unincorporated" means the area outside of the incorporated area of a municipality.

(52) "Water right" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

~~[(52)]~~ (53) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 4. Section **17-27a-507** is amended to read:

17-27a-507. Exactions -- Requirement to offer to original owner property acquired by exaction.

(1) A county may impose an exaction or exactions on development proposed in a land use application ~~[provided that]~~, including, subject to Subsection (2), an exaction for a water right, if:

(a) an essential link exists between a legitimate governmental interest and each exaction; and

(b) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

(2) (a) A county:

(i) shall base any exaction for a water right on the culinary water authority's established calculations of projected water right requirements; and

(ii) may not impose an exaction for a water right if the culinary water authority's existing water rights exceed the water rights needed to meet the reasonable future water

560 requirement of the public, as determined under Subsection 73-1-4(2)(f).

561 (b) Upon an applicant's request, the culinary water authority shall provide the applicant
562 with the basis for the culinary water authority's calculations under Subsection (2)(a)(i) on
563 which an exaction for a water right is based.

564 ~~[(2)]~~ (3) (a) If a county plans to dispose of surplus real property under Section
565 17-50-312 that was acquired under this section and has been owned by the county for less than
566 15 years, the county shall first offer to reconvey the property, without receiving additional
567 consideration, to the person who granted the property to the county.

568 (b) A person to whom a county offers to reconvey property under Subsection ~~[(2)]~~
569 (3)(a) has 90 days to accept or reject the county's offer.

570 (c) If a person to whom a county offers to reconvey property declines the offer, the
571 county may offer the property for sale.

572 (d) Subsection ~~[(2)]~~ (3)(a) does not apply to the disposal of property acquired by
573 exaction by a community development or urban renewal agency.